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**ROBB EVANS OF ROBB EVANS & ASSOCIATES
LLC**

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JEREMY JOHNSON, etc., et al.,

Defendants.

Case No. 2:10-CV-02203-MMD-GWF

**~~PROPOSED~~ ORDER GRANTING
MOTION FOR ORDER (1)
AUTHORIZING, APPROVING AND
CONFIRMING SALE OF 647
ARROWHEAD TRAIL, SANTA CLARA,
UTAH AND SALE AND OVERBID
PROCEDURES AND FOR RELATED
RELIEF; AND (2) GRANTING RELIEF
FROM LOCAL RULE 66-5
PERTAINING TO NOTICE TO
CREDITORS**

The matter of the Motion for Order: (1) Authorizing, Approving and Confirming Sale of
647 Arrowhead Trail, Santa Clara, Utah and Sale and Overbid Procedures and for Related Relief;

1 and (2) Granting Relief from Local Rule 66-5 Pertaining to Notice to Creditors ("Motion") filed
2 by Robb Evans of Robb Evans & Associates LLC ("Receiver"), the Receiver pursuant to the
3 Court's Preliminary Injunction Order issued February 10, 2011, came on regularly before the
4 Court for determination, the Honorable Miranda M. Du, United States District Judge presiding.
5 The Court, having reviewed and considered the Motion and all pleadings and papers filed in
6 support thereof, and all responses or oppositions thereto, if any, and good cause appearing
7 therefor,

8 IT IS ORDERED that:

9 1. The Motion, and all relief sought therein, is granted in its entirety;

10 2. Without limiting the generality of the foregoing:

11 A. The Receiver's proposed sale and overbid procedures for the sale of the real
12 property located at 647 Arrowhead Trail, Santa Clara, Utah 84765 ("Arrowhead Trail Property")
13 are hereby authorized and approved, and the Court hereby approves and confirms the sale of the
14 Arrowhead Trail Property on an "as is" basis more fully described in the sale contract documents
15 by private sale either (a) to Title Solutions ("Proposed Buyer"), an arm's length buyer, at a
16 purchase price of \$390,000 pursuant to the Real Estate Purchase Contract dated October 23, 2013,
17 Addendum No. 1 to Real Estate Purchase Contract, Addendum No. 2 to Real Estate Purchase
18 Contract/Counteroffer dated October 31, 2013 and accepted November 1, 2013, and the
19 Additional Terms and As Is Purchase attachments attached collectively as Exhibit 2 to the
20 Declaration of M. Val Miller filed in support of the Motion (collectively "Proposed Purchase
21 Agreement"), or (b) to such higher qualified overbidder who hereafter submits the highest
22 qualified overbid at a subsequent overbid session to be conducted under the terms and conditions
23 more fully set forth herein.

24 B. The Court hereby authorizes the sale of the Arrowhead Trail Property subject to
25 the following overbid procedures, which the Court hereby approves:

26 1. The overbid session shall be conducted within 30 days of the date of entry
27 of this Order. The overbid session will be conducted at the offices of Kirch & Todd Real Estate,
28 43 South 100 East, Suite 200, St. George, Utah 84770;

1 2. The Receiver shall cause to be published a notice of the proposed sale of
2 the Arrowhead Trail Property to a qualified bidder at the overbid session to be conducted under
3 paragraph 1.A. above, which notice shall state the date, time and place of the overbid session, the
4 requirement for pre-qualification by overbidders and the terms and conditions of the overbidding
5 and sale of the property, as described below ("Overbid Notice"). The Receiver shall cause the
6 Overbid Notice to be published in The Spectrum newspaper one time at least ten days prior to the
7 scheduled overbid session date.

8 3. Any person wishing to overbid at the overbid session shall be required to
9 pre-qualify with the Receiver no later than 10:00 a.m. two business days preceding the overbid
10 session by delivering to the Receiver's office located at 6037 S. Ft. Apache Road, Suite 130, Las
11 Vegas, Nevada 89148: (a) notice in writing of the prospective overbidder's intent to overbid
12 together with (b) written verification from a financial institution demonstrating to the Receiver's
13 satisfaction, in the Receiver's sole opinion and judgment, the prospective overbidder's ability to
14 complete and close a purchase of the Arrowhead Trail Property through sufficient funds or credit
15 facilities within 10 days of the date of the overbid session, and (c) a cashier's check in the sum of
16 \$20,000 payable to I Works Inc. Receivership QSF, which cashier's check shall become non-
17 refundable upon acceptance of the overbidder's overbid at the conclusion of the overbid session.

18 4. Overbidders bidding at the overbid session shall be deemed to have
19 completed all inspections of the Arrowhead Trail Property and will be deemed to have waived
20 and/or removed all contingencies in favor of the buyer under the Proposed Purchase Agreement,
21 including without limitation any contingency pertaining to inspection of title, and will be required
22 to complete a cash purchase of the Arrowhead Trail Property and close escrow for the purchase of
23 the Arrowhead Trail Property within 10 days of the date of the overbid session. The successful
24 overbidder will be required to execute a purchase agreement for the Arrowhead Trail Property
25 substantially in the form of the Proposed Purchase Agreement together with a waiver of all buyer
26 contingencies promptly after conclusion of the overbid session.

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1 5. The initial overbid shall be in the amount of \$429,000.00 (an amount that is
2 \$39,000, or 10%, higher than the purchase price under the Proposed Purchase Agreement), and all
3 subsequent overbids shall be in an amount at least \$10,000 higher than the preceding bid.

4 6. Pursuant to the Proposed Purchase Agreement and the Receiver's listing
5 agreement with James Fales of Todd & Kirch Real Estate ("Broker"), a sales commission in the
6 amount of 6% of the purchase price paid for the Arrowhead Trail Property by the Proposed
7 Buyer, or if a higher overbid is received and accepted at the overbid session, by the winning
8 overbidder, shall be paid from the proceeds of sale of the Arrowhead Trail Property at close of
9 escrow and shall be paid to the Broker as listing agent under the listing agreement, or if buyer is
10 represented by a cooperating broker, shall be divided and paid equally to the Broker as the listing
11 agent and the buyer's cooperating broker, under the terms of the listing agreement.

12 7. That the sale of the Arrowhead Trail Property by private sale to the
13 Proposed Buyer under the Proposed Purchase Agreement, or to the person who submits the
14 highest qualified overbid at the overbid session to be conducted pursuant to the foregoing
15 procedures, will be deemed confirmed by this Order without further notice or hearing and without
16 the necessity of any subsequent motion for confirmation of the sale;

17 C. The Receiver is authorized to execute all documents and instruments necessary or
18 convenient to complete, implement, effectuate and close the sale of the Arrowhead Trail Property
19 to the purchaser, including but not limited to the deed conveying title to the Arrowhead Trail
20 Property;

21 D. The Receiver is authorized to permit and/or cause to be paid from the proceeds of
22 sale all ordinary and customary closing costs, all costs and expenses required to be paid under the
23 terms of the Proposed Purchase Agreement by the seller from the proceeds of sale, all
24 commissions provided for in the Proposed Purchase Agreement, the Receiver's listing agreement
25 for the property attached as Exhibit 1 to the Declaration of M. Val Miller in support of the Motion
26 and the Motion, and all real property tax liens and prorated real property taxes due up to the date
27 of closing;

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1 E. Notice of the Motion is deemed sufficient under Local Civil Rule 66-5 based on
2 the service of a notice of the filing of the Motion and the Motion on all parties and service of a
3 notice of the filing of the Motion on all known non-consumer creditors of the estate concurrent
4 with the filing of the Motion.

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6 Dated: January 1, 2014



MIRANDA M. DU
United States District Judge

CERTIFICATE OF SERVICE

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 300 South Grand Avenue, 14th Floor, Los Angeles, CA 90071.

On December 4, 2013, I served the **[PROPOSED] ORDER GRANTING MOTION FOR ORDER (1) AUTHORIZING, APPROVING AND CONFIRMING SALE OF 647 ARROWHEAD TRAIL, SANTA CLARA, UTAH AND SALE AND OVERBID PROCEDURES AND FOR RELATED RELIEF; AND (2) GRANTING RELIEF FROM LOCAL RULE 66-5 PERTAINING TO NOTICE TO CREDITORS** upon the parties and/or counsel listed and by the methods indicated on the attached Service List.

I declare upon the penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made. Executed on December 4, 2013 at Los Angeles, California.

/s/ Tracey L. Waters
Tracey L. Waters

SERVICE LIST

The following CM/ECF participants were served by electronic means on December 4,

2013:

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24 The following non-CM/ECF participants were served by first-class mail, postage prepaid
 25 on December 4, 2013:

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